



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPU-DR-PP, OPUM-DR, FFL

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on May 11, 2021, the landlords sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing. Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that the tenant is deemed to have been served with the Direct Request Proceeding documents on May 16, 2021, the fifth day after their registered mailing.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent and utilities pursuant to section 67 of the *Act*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The landlords submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by one of the landlords and the tenant on March 13, 2020, indicating a monthly rent of \$1,400.00, due on the first day of each month for a tenancy commencing on March 13, 2020
- A copy of four utility bills from the Fortis for the rental unit dated October 8, 2020 for \$54.97, November 7, 2020 for \$105.54, December 10, 2020 for \$162.30, and January 13, 2021 for \$203.85
- A copy of two utility bills from BC Hydro for the rental unit dated November 17, 2020 for \$101.17 and January 18, 2021 for \$197.04
- A copy of a demand letter from the landlord to the tenant, dated January 19, 2021, requesting payment of utilities in the amount of \$824.87
- A copy of a witnessed Proof of Service Written Demand to Pay for Utilities form which indicates that the demand letter was placed in the tenant's mailbox at 10:45 am on January 19, 2021
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated April 13, 2021, for \$8,300.00 in unpaid rent and \$824.87 in unpaid utilities. The 10 Day Notice provides that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of April 23, 2021
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to the tenant at 7:30 pm on April 13, 2021

Analysis

Section 52 of the *Act* provides the following requirements regarding the form and content of notices to end tenancy:

52 *In order to be effective, a notice to end a tenancy must be in writing and must*
(a) be signed and dated by the landlord or tenant giving the notice,
(b) give the address of the rental unit,
(c) state the effective date of the notice...and
(e) when given by a landlord, be in the approved form...

I have reviewed all documentary evidence and I find that the 10 Day Notice is not signed by either of the landlords. I further find that this omission invalidates the 10 Day Notice as the landlords have not complied with the provisions of section 52 of the *Act*.

Therefore, I dismiss the landlords' application to end this tenancy and obtain an Order of Possession based on the 10 Day Notice dated April 13, 2021, without leave to reapply.

The 10 Day Notice dated April 13, 2021 is cancelled and of no force or effect.

For the same reasons identified in the 10 Day Notice, the landlords' application for a Monetary Order for unpaid rent and utilities is dismissed, with leave to reapply.

As the landlords were not successful in this application, I find that the landlords are not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The landlords' application for an Order of Possession based on the 10 Day Notice dated April 13, 2021, is dismissed, without leave to reapply.

The 10 Day Notice dated April 13, 2021, is cancelled and of no force or effect.

This tenancy continues until it is ended in accordance with the *Act*.

I dismiss the landlords' application for a Monetary Order for unpaid rent and utilities, with leave to reapply.

I dismiss the landlords' application to recover the filing fee paid for this application, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 25, 2021

Residential Tenancy Branch